

CHAPTER 4-27

DAIRY PROMOTION COMMISSION

4-27-01. Title. This chapter shall be known as the North Dakota Dairy Promotion Commission Act.

4-27-02. Purposes. The purposes of this chapter are:

1. To promote the sale and disposal of North Dakota dairy products through coordinated research, education, public relations, advertising, and other means.
2. To help assure the future operation of processing plants located in our cities and towns employing thousands of people.
3. To maintain dairy markets, particularly for the family-type farms, thus enabling more families to live on our farms.
4. To provide for a referendum vote among dairy farmers to determine whether they favor the assessment provided for in section 4-27-06.
5. To provide for the keeping of records, inspection thereof, and penalties for violation of this chapter.

4-27-03. Definitions.

1. "Commission" means the North Dakota dairy promotion commission.
2. The term "dealer" means and includes any person who handles, ships, buys, or sells dairy products, or who acts as sales or purchasing agent, broker or factor of dairy products.
3. The term "gross receipts" means that amount paid to a producer for milk or some product therefrom sold by such producer.
4. The terms "handle" or "handler" mean or indicate any person who purchases milk or cream for processing, manufacturing, sale, or distribution, whether as owner, agent, employee, or otherwise.
5. The term "person" includes individuals, corporations, limited liability companies, partnerships, trusts, associations, cooperatives and any and all other business units, devices, and arrangements.
6. The terms "processor" or "processing plant" include every person and every place to whom or to which milk or cream is delivered, for the purpose of canning, drying, manufacturing, preparing, or packaging for market, or for use in producing or manufacturing a product of milk or cream.
7. The term "producer" includes every person who produces milk from cows and thereafter sells the milk or some product therefrom.
8. "Shipment" and "shipped" must be deemed to have taken place when milk or cream has been delivered or consigned to any person dealing in, processing, distributing, or manufacturing dairy products for sale.

4-27-04. North Dakota dairy promotion commission. There is hereby created a North Dakota dairy promotion commission consisting of nine members. The governor shall appoint two members who must be producers and one member who must be a processor. The governor shall appoint the producer members from a list of nominees supplied by the American dairy

association of North Dakota and the processor member from a list of nominees supplied by the North Dakota dairy industries association. Each list of nominees must contain at least twice as many names as the number of appointments to be made therefrom. The term of office of each appointive member of the commission is two years, except that the initial appointment of one producer is for only one year, so that thereafter the term of one producer will expire each year. Terms of office commence on the first day of July. In addition to the three appointive members there must be two ex officio, nonvoting, members of the commission who must be the agriculture commissioner or the commissioner's designee and the head of the animal science department or the department's designee at North Dakota state university. In addition to the appointive and ex officio members there must be four elected members of the commission who must be the president of the American dairy association of North Dakota, the president of the dairy council of North Dakota, and two members of the milk producers association of North Dakota to be elected by that association. The elected members shall meet with the commission and shall have the same rights and duties as the appointive members including the right to vote. The milk producers shall serve terms of two years, commencing on July first, except that initially one producer shall serve a term of one year as designated by the milk producers association of North Dakota.

4-27-05. Powers and duties of commission.

1. The commission shall administer and enforce the provisions of this chapter and has and may exercise any and all of the powers conferred upon it herein. A majority of the members of the commission constitutes a quorum for the transaction of business and the carrying out of the duties of the commission.
2. The commission shall elect a chairman, vice chairman, secretary-treasurer, and such other officers as may be deemed advisable and adopt such rules, regulations, recommendations, and orders for the exercise of its powers and performance of its duties as is deemed advisable.
3. The commission shall determine the amount of compensation payable to each member of the commission. The amount payable may not exceed seventy-five dollars per day plus reimbursement of expenses as provided by law for state officers, while attending meetings or performing duties directed by the commission.
4. The commission shall select a state manager, whose compensation must be fixed by the commission. The commission is also authorized to employ such additional personnel as are necessary, including an attorney, to fix their compensation and terms of employment, and to incur such expenses as the commission may deem necessary and proper to carry out their duties, to be paid from moneys collected as herein provided.
5. The commission shall plan and carry out dairy products research, education, public relations, advertising, sales promotion, and other programs for the purpose of promoting the sale and consumption of dairy products on both a state and national basis and may contract for any service in connection therewith.
6. The commission may accept and disburse voluntary contributions for the use and purposes of the commission.
7. To effectuate the declared purposes of this chapter, the commission shall collect the assessment on all milk produced in this state and to make disbursements from such funds as provided herein.

4-27-06. Assessment - Appropriation.

1. There is hereby levied on each producer an assessment of ten cents per hundredweight [45.36 kilograms] on all milk or some product therefrom produced and sold by that producer.

2. All assessments levied under this chapter must be collected by the first dealer or processor through deduction of the same from the gross receipts, with the exception that where the producer sells directly to the consumer, the assessment must be collected from the producer. All moneys received by the dealers, processors, and producers from the assessment must be remitted to the state treasurer and deposited by the state treasurer in the North Dakota dairy promotion commission fund and are hereby appropriated to the commission and must be disbursed by the commission in accordance with the provisions of this chapter. The remittance of such assessments must be made monthly not later than the last day of the month following the month in which the milk was marketed. Assessments unpaid on the date on which they are due and payable may be increased by one and one-half percent of the amount of the assessment.
3. Any producer desiring a refund of such assessment shall personally make written application to the secretary-treasurer of the commission therefor. Such application must be made to the secretary-treasurer upon forms provided by the commission no later than thirty days from the time of any payment made to a producer. Upon request, refunds must be made by the secretary-treasurer on a monthly basis.

4-27-07. Dealers', processors', and producers' records. All dealers, processors, and producers responsible for the collection and remittance of the assessment imposed by this chapter shall keep a complete and accurate record of all milk receipts subject to assessment by this chapter. These records must contain such information as the commission prescribes, must be preserved for a period of two years, and are subject to inspection by authorized agents or employees of the commission.

4-27-08. Reports. All persons required by this chapter to keep records, shall file with the commission, as the commission may require by rule, a return on or before the fifteenth day of each month, on forms to be prescribed and furnished by the commission, stating the amount of milk subject to assessment during the preceding month, and such other information as the commission may reasonably require. A copy of the return must be retained by all dealers and processors for inspection by the producers selling to them.

4-27-09. Expenses. No part of the expense incurred by the commission may be paid from any other source than the North Dakota dairy promotion commission fund, and the expenses incurred by the commission must at no time exceed the amount available in the fund.

4-27-10. Security bonds. Repealed by S.L. 2005, ch. 261, § 26.

4-27-11. Biennial report and audit of commission. The commission may submit a biennial report to the governor and the secretary of state in accordance with section 54-06-04. The state auditor shall audit biennially the books, records, and accounts of the commission. The commission shall pay the cost of the audit from the funds of the commission.

4-27-12. Penalty. Any person who violates any of the provisions of this chapter is guilty of a class B misdemeanor.